

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WALTER JONES, #235079,

Petitioner,

v.

Case Number 11-13115

D. VANDECASTEELE, et al.,

Honorable Thomas L. Ludington

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND DISMISSING
PLAINTIFF'S COMPLAINT WITH PREJUDICE**

On July 11, 2012, Magistrate Judge David R. Grand issued a Report and Recommendation, recommending that Defendants' motion for summary judgment be granted. ECF No. 16. Judge Grand concluded that summary judgment on Plaintiff's claims should be granted because: (1) Plaintiff had not administratively exhausted his claims against Defendant VandeCastele pursuant to MDOC Policy Directive 03.02.130; (2) Plaintiff's First Amendment retaliation claim against Defendant Sholtz, Mayfiend and Best fails as a matter of law because Defendants had demonstrated that the action would have been taken even in the absence of Plaintiff's protected conduct; (3) there was no evidence that Plaintiff was treated different than similarly situated individuals when his employment was terminated or that he was intentionally and arbitrarily discriminated against in order to establish that his rights under the Equal Protection Clause were violated; (4) Plaintiff's Section 1983 conspiracy claim fails as a matter of law because Plaintiff has presented no evidence that Sholtz and VandeCastele acted in concert to deprive him of his rights under the Constitution and, alternatively, because summary judgment is appropriate on Plaintiff's First Amendment retaliation and Equal Protection claims; and (5) Plaintiff's claims are barred by the doctrine of

qualified immunity because he has not demonstrated a violation of a clearly established constitutional right.

As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that Judge Grand's report and recommendation (ECF No. 16) is **ADOPTED**.

It is further **ORDERED** that Defendants' motion for summary judgment (ECF No. 9) is **GRANTED**.

It is further **ORDERED** that Plaintiff's complaint is **DISMISSED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: August 1, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and on Walter Jones, #235079, Macomb Correctional Facility, 34625 26 Mile Road, New Haven, MI 48048 by first class U.S. mail on August 1, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS